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**FEDERAL ELECTION COMMISSION**

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**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

PRE-MUR: 595

DATES RECEIVED: July 22, 2016 (Orig.)

Oct. 11, 2016 (First Suppl.)

Nov. 14, 2016 (Second Suppl.)

DATE ACTIVATED: Nov. 14, 2016

SOL: Jan. 20, 2020 to Feb. 4, 2021

ELECTION CYCLE: 2016

**SOURCE:**

*Sua Sponte* Submission

**RESPONDENTS:**

Bell Nursery Holdings, LLC

Bell Nursery USA, LLC

Gary L. Mangum

**RELEVANT STATUTES**

52 U.S.C. § 30122

**AND REGULATIONS:**

11 C.F.R. § 110.4

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

This matter was generated by a joint *sua sponte* submission ("Submission") by Bell Nursery Holdings, LLC ; Bell Nursery USA, LLC ("Bell Nursery"); and Gary L. Mangum, Bell Nursery's President and Chief Executive Officer ("Magnum"). The Submission notified the Commission that Bell Nursery reimbursed Mangum for eight federal political contributions totaling \$17,857 that were made in 2015 and 2016 via Magnum's personal credit card. The reimbursements occurred when Bell Nursery reimbursed a number of other business expenses, along with the contributions, that Magnum paid for with his personal credit card. Respondents

1 state that the reimbursements happened due to "insufficient attention to distinguishing between  
2 Mr. Mangum's business and personal civic activities."<sup>1</sup> Respondents have informed the recipient  
3 candidates and committees that the contributions should be re-attributed as partnership  
4 contributions from Bell Nursery with 100% allocation to Magnum as the individual partner who  
5 provided the funds.

6 We recommend that the Commission open a matter under review and find reason to  
7 believe that Bell Nursery and Magnum violated the Federal Election Campaign Act, 52 U.S.C.  
8 §§ 30101-46 (the "Act") and Commission regulations, by making, and allowing Magnum's name  
9 to be used to make, contributions in the name of another. We also recommend that the  
10 Commission enter into pre-probable cause conciliation with Bell Nursery and Magnum and  
11 approve the attached joint conciliation agreement.

## 12 II. FACTUAL AND LEGAL ANALYSIS

### 13 A. Background

14 Bell Nursery Holdings, LLC is treated as a partnership by the Internal Revenue Service  
15 and acts as a holding company.<sup>2</sup> Bell Nursery is its wholly owned subsidiary, which for tax  
16 purposes, is treated as a disregarded entity of Bell Nursery Holdings, LLC.<sup>3</sup> Mangum is Bell  
17 Nursery's President, Chief Executive Officer, and part owner.<sup>4</sup> Since 2004, Magnum has made  
18 federal contributions totaling \$71,657, of which \$35,357 were made during 2015 and 2016.

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<sup>1</sup> Submission at 2.

<sup>2</sup> Submission at 1.

<sup>3</sup> *Id.* "A disregarded entity refers to a business entity with one owner that is not recognized for tax purposes as an entity separate from its owner." <http://pmtax.com/faq-what-is-a-disregarded-entity/>. (Last accessed Jan. 11, 2017). Accordingly, Bell Nursery is essentially a partnership for tax purposes.

<sup>4</sup> *Id.*

1 In the spring of 2016, Bell Nursery and Mangum hired a law firm to assess their  
2 compliance with Maryland's campaign finance law contribution limits, and later expanded that  
3 review to include federal contributions.<sup>5</sup> This review revealed that Bell Nursery had reimbursed  
4 Mangum for eight federal contributions totaling \$17,857 that were charged to his personal credit  
5 cards in 2015 and 2016.<sup>6</sup> The review did not find that Bell Nursery had reimbursed any of  
6 Mangum's contributions prior to 2015.<sup>7</sup> Specifically, the following 2015 and 2016  
7 contributions, all made by credit card, were reimbursed:

8

Date	Amount	Recipient	Year	Election
1/20/2015	\$2,600	Georgians for Isakson	2016	General
1/20/2015	\$2,600	Georgians for Isakson	2016	Primary
4/20/2015	\$1,000	Andy Harris for Congress	2016	Primary
5/1/2015	\$5,000	Leadership Matters for America PAC,	2015	NA
7/29/2015	\$1,000	Barve for Congress	2016	Primary
8/25/2015	\$257	Barve for Congress	2016	Primary
8/28/2015	\$2,700	Chris Christie for President, Inc.	2016	Primary
2/4/2016	\$2,700	America Leads	2016	NA

9 Total: \$17,857

<sup>5</sup> Submission at 2.

<sup>6</sup> *Id.*

<sup>7</sup> Commission records show that Mangum made eight federal contributions from the 2004 through the 2014 election cycles. Maryland state records show that Mangum made 40 contributions in connection with Maryland state elections from the 2010 through the 2014 election cycles, and 18 in the 2016 election cycle. Bell Nursery and Bell Nursery Holdings, LLC made a combined total of 12 contributions in connection with Maryland state elections in the 2010, 2014, and 2016 election cycles.

1 During this same election cycle, Magnum also made \$18,700 in contributions that were not  
2 reimbursed.<sup>8</sup>

3 Respondents state they cannot explain why some of Magnum's contributions were  
4 reimbursed as business expenses and others were not. According to Respondents, Mangum and  
5 his personal assistant would review Magnum's credit card accounts separately, making notes on  
6 the statements.<sup>9</sup> When this initial process was complete, the personal assistant would send the  
7 draft expense report to a second Bell Nursery employee, an administrative assistant, to assign  
8 general ledger codes, tabulate the various categories' expense report entries, and complete the  
9 report for submission.

10 Respondents provided a few sample documents from the review, including credit card  
11 statements that had been marked and lists of charges submitted for reimbursement with assigned  
12 general ledger codes. The copies of credit card statements showed three federal contributions:  
13 the two January 20, 2015, contributions to Georgians for Isakson, and the April 20, 2015,  
14 contribution to Andy Harris for Congress. While the full names of the recipient committees do  
15 not appear on the statements, there is sufficient information, either in the credit card company's  
16 description of the item or in the accompanying notes to identify the charges as political

<sup>8</sup> The following contributions, made by Mr. Magnum during the 2016 election cycle were not reimbursed:

11/11/2015	\$2,700	Portman for Senate Committee	2016	Primary
11/11/2015	\$2,700	Portman for Senate Committee	2016	General
2/17/2016	\$1,000	Kathy for Maryland	2016	Primary
3/9/2016	\$2,500	Plaster for Congress	2016	Primary
4/4/2016	\$1,700	Kathy for Maryland	2016	Primary
4/29/2016	\$2,700	Kathy for Maryland	2016	General
8/8/2016	\$2,700	Plaster for Congress	2016	General
8/15/2016	\$2,700	Amie Hoeber for Congress	2016	General

Total: \$18,700

<sup>9</sup> See the Supplement dated November 14, 2016 at pages 8-14.

1 contributions, which suggests an intentional instruction to reimburse these contributions, rather  
2 than inadvertent mistakes.<sup>10</sup> According to the Submission, the notations were likely written  
3 between January 2015 and February 2016. During that same period, Mangum made  
4 contributions totaling \$6,400 that were not reimbursed. Without further information, it is  
5 impossible to deduce why Bell Nursery did not reimburse those contributions, but reimbursed the  
6 contributions at issue in this matter.

7 To remedy the improper reimbursements, counsel for Mangum and Bell Nursery sent  
8 letters to each of the recipient committees, requesting that they reattribute the contributions to  
9 Bell Nursery and attribute them 100 percent to Mangum, or refund the contributions. Copies of  
10 these letters were attached to the Submission. One contribution has been reattributed. In  
11 addition, counsel for Respondents has explained relevant federal law regarding reimbursements  
12 to Mangum, his assistant, and Bell Nursery's Chief Financial Officer. Bell Nursery has also  
13 instituted a policy under which no contributions are reimbursed. All contributions made by Bell  
14 Nursery are made by corporate check, and all contributions made by Mangum are made by  
15 personal check. Finally, Respondents state that Bell Nursery's finance employees will use extra  
16 diligence when reviewing reimbursement requests so as to avoid reimbursing political  
17 contributions.

## 18 **B. Analysis**

19 The Act prohibits a person from making a contribution in the name of another or  
20 knowingly permitting his or her name to be used to effect such a contribution.<sup>11</sup> The term

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<sup>10</sup> For example, the entry for the contribution to Georgians for Isakson reads: "All\*GEORGIANS.FOR  
ISWASHINGTON DC." A handwritten note by that entry makes the following clarification with a check mark by  
it: "Johnny Isakson Georgia (Frank Blake Dinner) political donation."

<sup>11</sup> 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i).

1 "person" for purposes of the Act and Commission's regulations includes partnerships.<sup>12</sup> The  
2 Commission has included in its regulations illustrations of activities that constitute making a  
3 contribution in the name of another:

- 4 (i) Giving money or anything of value, all or part of which was provided  
5 to the contributor by another person (the true contributor) without  
6 disclosing the source of money or the thing of value to the recipient  
7 candidate or committee at the time the contribution is made; or  
8 (ii) Making a contribution of money or anything of value and attributing  
9 as the source of the money or thing of value another person when in  
10 fact the contributor is the source.<sup>13</sup>

11 By reimbursing Mangum for his federal contributions, Bell Nursery made contributions  
12 in the name of another. Further, Mangum allowed his name to be used to make contributions in  
13 the name of another. Accordingly, we recommend that the Commission find reason to believe  
14 that Bell Nursery and Mangum violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4.

15 A violation of the Act is knowing and willful if the "acts were committed with full  
16 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>14</sup> This  
17 does not require proving knowledge of the specific statute or regulations that the respondent  
18 allegedly violated.<sup>15</sup> Instead, it is sufficient that the respondent "acted voluntarily and was aware

<sup>12</sup> See 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10. As a disregarded entity whose parent company is an LLC that is treated as a partnership by the Internal Revenue Service, Bell Nursery is treated as a partnership for the purpose of making contributions. See 11 C.F.R. § 110.1(g)(2).

<sup>13</sup> 11 C.F.R. § 110.4(b)(2)(i)-(ii).

<sup>14</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>15</sup> *United States v. Danielczyk*, 917 F.Supp. 2d 573, 579 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

1 that his conduct was unlawful."<sup>16</sup> This may be shown by circumstantial evidence from which the  
2 respondents' unlawful intent reasonably may be inferred.<sup>17</sup>

3 While the evidence indicates that Bell Nursery knowingly sought to reimburse Mangum  
4 for certain contributions in violation of the law, the record, as a whole, does not suggest that  
5 these violations were knowing and willful. First, the respondents deny they intended to violate  
6 federal laws, explaining that the reimbursements were caused by "insufficient attention to  
7 distinguishing between Mr. Mangum's business and personal civic activities."<sup>18</sup> Second, during  
8 the period when contributions were reimbursed, other federal contributions were not reimbursed,  
9 which supports Respondents' claim that the reimbursements occurred because of negligence.  
10 Third, there is no evidence that Respondents tried to conceal the reimbursements by making false  
11 entries regarding the purpose of the payments. Fourth, Respondents appear to have retained  
12 counsel voluntarily to review its compliance with both state and federal law, and they  
13 implemented appropriate remedial measures. Although Mangum had experience making federal  
14 contributions, which provides some basis to infer he knew that it was improper to seek  
15 reimbursements, the overall circumstances make it reasonable to conclude the reimbursements  
16 resulted from a mistake.<sup>19</sup>

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<sup>16</sup> *Id.*

<sup>17</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contribution scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>18</sup> Respondents note that Maryland allows both individuals and corporations to make contributions and seem to imply that the difference between federal and Maryland law may have contributed to their lack of diligence. Maryland, however, does not allow contributions to be reimbursed by another party. Md. Election Law Code Ann. § 13-602(a)(5).

<sup>19</sup> *See, e.g., MUR 5643 (Carter's)* (*sua sponte* involving company reimbursing contributions required to get tickets to President's speech at candidate's fundraiser. Checks were made out to the candidate's principal campaign committee, and the corporation had a policy in place of not reimbursing political contributions. Nevertheless, the Commission accepted the respondents' statements that they did not know their conduct was illegal.).

Accordingly, we recommend that the Commission find reason to believe that Bell Nursery USA, LLC violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(i); and that Gary L. Mangum violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii), (iii). Because Bell Nursery Holdings, LLC does not appear to have funded any of the reimbursements, and because its only involvement appears to be as the holding company of Bell Nursery, we recommend that the Commission decline to open a matter as to Bell Nursery Holdings, LLC.

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V. RECOMMENDATIONS

1. Open a Matter Under Review as to Bell Nursery USA, LLC and Gary L. Mangum.
2. Decline to open a Matter Under Review as to Bell Nursery Holdings, LLC.
3. Find reason to believe that Bell Nursery USA, LLC violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(i).
4. Find reason to believe that Gary L. Mangum violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii), (iii).
5. Approve the Factual and Legal Analysis.
6. Authorize pre-probable cause conciliation with Bell Nursery USA, LLC and Gary L. Mangum.
7. Approve the attached proposed joint conciliation agreement.
8. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Acting Associate General Counsel  
for Enforcement

1/13/2017

Date

Stephen A. Gura  
Deputy Associate General Counsel  
for Enforcement

Mark Shonkwiler  
Assistant General Counsel

Tony Buckley  
Attorney

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Attachments:  
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **MUR:**

6  
7 **RESPONDENTS:** Bell Nursery USA, LLC  
8 Gary L. Mangum  
9

10  
11 **I. INTRODUCTION**

12 This matter was generated by a joint *sua sponte* submission by Bell Nursery Holdings,  
13 LLC ; Bell Nursery USA, LLC ("Bell Nursery"); and Gary L. Mangum, Bell Nursery's President  
14 and Chief Executive Officer ("Magnum"), dated July 21, 2016 ("Submission"), and  
15 supplemental submissions dated October 11, and November 14, 2016. The Submission notified  
16 the Commission that Bell Nursery reimbursed Mangum for eight federal political contributions  
17 totaling \$17,857 that were made in 2015 and 2016 via Magnum's personal credit card. The  
18 reimbursements occurred when Bell Nursery reimbursed a number of other business expenses,  
19 along with the contributions, that Magnum paid for with his personal credit card. Respondents  
20 state that the reimbursements happened due to "insufficient attention to distinguishing between  
21 Mr. Mangum's business and personal civic activities."<sup>1</sup>

22 **II. FACTUAL AND LEGAL ANALYSIS**

23 **A. Background**

24 Bell Nursery Holdings, LLC is treated as a partnership by the Internal Revenue Service  
25 and acts as a holding company.<sup>2</sup> Bell Nursery is its wholly owned subsidiary, which for tax

<sup>1</sup> Submission at 2.

<sup>2</sup> Submission at 1.

purposes, is treated as a disregarded entity of Bell Nursery Holdings, LLC.<sup>3</sup> Mangum is Bell Nursery's President, Chief Executive Officer, and part owner.<sup>4</sup> Since 2004, Mangum has made federal contributions totaling \$71,657, of which \$35,357 were made during 2015 and 2016.

In the spring of 2016, Bell Nursery and Mangum hired a law firm to assess their compliance with Maryland's campaign finance law contribution limits, and later expanded that review to include federal contributions.<sup>5</sup> This review revealed that Bell Nursery had reimbursed Mangum for eight federal contributions totaling \$17,857 that were charged to his personal credit cards in 2015 and 2016.<sup>6</sup> The review did not find that Bell Nursery had reimbursed any of Mangum's contributions prior to 2015.<sup>7</sup> Specifically, the following 2015 and 2016 contributions, all made by credit card, were reimbursed:

Date	Amount	Recipient	Year	Election
1/20/2015	\$2,600	Georgians for Isakson	2016	General
1/20/2015	\$2,600	Georgians for Isakson	2016	Primary
4/20/2015	\$1,000	Andy Harris for Congress	2016	Primary
5/1/2015	\$5,000	Leadership Matters for America PAC	2015	N/A
7/29/2015	\$1,000	Barve for Congress	2016	Primary
8/25/2015	\$257	Barve for Congress	2016	Primary
8/28/2015	\$2,700	Chris Christie for President, Inc.	2016	Primary
2/4/2016	\$2,700	America Leads	2016	N/A

Total: \$17,857

<sup>3</sup> *Id.* "A disregarded entity refers to a business entity with one owner that is not recognized for tax purposes as an entity separate from its owner." <http://pntax.com/faq-what-is-a-disregarded-entity/>. (Last accessed Jan. 11, 2017). Accordingly, Bell Nursery is essentially a partnership for tax purposes.

<sup>4</sup> *Id.*

<sup>5</sup> Submission at 2.

<sup>6</sup> *Id.*

<sup>7</sup> Commission records show that Mangum made eight federal contributions from the 2004 through the 2014 election cycles. Maryland state records show that Mangum made 40 contributions in connection with Maryland state elections from the 2010 through the 2014 election cycles, and 18 in the 2016 election cycle. Bell Nursery and Bell Nursery Holdings, LLC made a combined total of 12 contributions in connection with Maryland state elections in the 2010, 2014, and 2016 election cycles.

During this same election cycle, Magnum also made \$18,700 in contributions that were not reimbursed.<sup>8</sup>

Respondents state they cannot explain why some of Magnum's contributions were reimbursed as business expenses and others were not. According to Respondents, Mangum and his personal assistant would review Mangum's credit card accounts separately, making notes on the statements.<sup>9</sup> When this initial process was complete, the personal assistant would send the draft expense report to a second Bell Nursery employee, an administrative assistant, to assign general ledger codes, tabulate the various categories' expense report entries, and complete the report for submission.

Respondents provided a few sample documents from the review, including credit card statements that had been marked and lists of charges submitted for reimbursement with assigned general ledger codes. The copies of credit card statements showed three federal contributions: the two January 20, 2015, contributions to Georgians for Isakson, and the April 20, 2015, contribution to Andy Harris for Congress. While the full names of the recipient committees do not appear on the statements, there is sufficient information, either in the credit card company's description of the item or in the accompanying notes to identify the charges as political

<sup>8</sup> The following contributions, made by Mr. Magnum during the 2016 election cycle were not reimbursed:

11/11/2015	\$2,700	Portman for Senate Committee	2016	Primary
11/11/2015	\$2,700	Portman for Senate Committee	2016	General
2/17/2016	\$1,000	Kathy for Maryland	2016	Primary
3/9/2016	\$2,500	Plaster for Congress	2016	Primary
4/4/2016	\$1,700	Kathy for Maryland	2016	Primary
4/29/2016	\$2,700	Kathy for Maryland	2016	General
8/8/2016	\$2,700	Plaster for Congress	2016	General
8/15/2016	\$2,700	Amie Hoeber for Congress	2016	General
Total: \$18,700				

<sup>9</sup> See the Supplement dated November 14, 2016 at pages 8-14.

1 contributions, which suggests an intentional instruction to reimburse these contributions, rather  
2 than inadvertent mistakes.<sup>10</sup> According to the Submission, the notations were likely written  
3 between January 2015 and February 2016. During that same period, Mangum made  
4 contributions totaling \$6,400 that were not reimbursed. Without further information, it is  
5 impossible to deduce why Bell Nursery did not reimburse those contributions, but reimbursed the  
6 contributions at issue in this matter.

7 **B. Analysis**

8 The Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 (the "Act"), prohibits a  
9 person from making a contribution in the name of another or knowingly permitting his or her  
10 name to be used to effect such a contribution.<sup>11</sup> The term "person" for purposes of the Act and  
11 Commission's regulations includes partnerships.<sup>12</sup> The Commission has included in its  
12 regulations illustrations of activities that constitute making a contribution in the name of another:

- 13 (i) Giving money or anything of value, all or part of which was provided  
14 to the contributor by another person (the true contributor) without  
15 disclosing the source of money or the thing of value to the recipient  
16 candidate or committee at the time the contribution is made; or  
17 (ii) Making a contribution of money or anything of value and attributing  
18 as the source of the money or thing of value another person when in  
19 fact the contributor is the source.<sup>13</sup>

<sup>10</sup> For example, the entry for the contribution to Georgians for Isakson reads: "All\*GEORGIANS FOR ISWASHINGTON DC." A handwritten note by that entry makes the following clarification with a check mark by it: "Johnny Isakson Georgia (Frank Blake Dinner) political donation."

<sup>11</sup> 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i).

<sup>12</sup> See 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10. As a disregarded entity whose parent company is an LLC that is treated as a partnership by the Internal Revenue Service, Bell Nursery is treated as a partnership for the purpose of making contributions. See 11 C.F.R. § 110.1(g)(2).

<sup>13</sup> 11 C.F.R. § 110.4(b)(2)(i)-(ii).

1 By reimbursing Mangum for his federal contributions, Bell Nursery made contributions  
2 in the name of another. Further, Mangum allowed his name to be used to make contributions in  
3 the name of another.

4 A violation of the Act is knowing and willful if the "acts were committed with full  
5 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>14</sup> This  
6 does not require proving knowledge of the specific statute or regulations that the respondent  
7 allegedly violated.<sup>15</sup> Instead, it is sufficient that the respondent "acted voluntarily and was aware  
8 that his conduct was unlawful."<sup>16</sup> This may be shown by circumstantial evidence from which the  
9 respondents' unlawful intent reasonably may be inferred.<sup>17</sup>

10 While the evidence indicates that Bell Nursery knowingly sought to reimburse Mangum  
11 for certain contributions in violation of the law, the record, as a whole, does not suggest that  
12 these violations were knowing and willful. First, the respondents deny they intended to violate  
13 federal laws, explaining that the reimbursements were caused by "insufficient attention to  
14 distinguishing between Mr. Mangum's business and personal civic activities."<sup>18</sup> Second, during  
15 the period when contributions were reimbursed, other federal contributions were not reimbursed,

<sup>14</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>15</sup> *United States v. Danielczyk*, 917 F.Supp. 2d 573, 579 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

<sup>16</sup> *Id.*

<sup>17</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contribution scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>18</sup> Respondents note that Maryland allows both individuals and corporations to make contributions and seem to imply that the difference between federal and Maryland law may have contributed to their lack of diligence. Maryland, however, does not allow contributions to be reimbursed by another party. Md. Election Law Code Ann. § 13-602(a)(5).



1 which supports Respondents' claim that the reimbursements occurred because of negligence.  
2 Third, there is no evidence that Respondents tried to conceal the reimbursements by making false  
3 entries regarding the purpose of the payments. Fourth, Respondents appear to have retained  
4 counsel voluntarily to review its compliance with both state and federal law, and they  
5 implemented appropriate remedial measures. Although Magnum had experience making federal  
6 contributions, which provides some basis to infer he knew that it was improper to seek  
7 reimbursements, the overall circumstances make it reasonable to conclude the reimbursements  
8 resulted from a mistake.<sup>19</sup>

9 Accordingly, the Commission finds reason to believe that Bell Nursery USA, LLC  
10 violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(i); and that Gary L. Mangum violated  
11 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii), (iii).

<sup>19</sup> See, e.g., MUR 5643 (Carter's) (*sua sponte* involving company reimbursing contributions required to get tickets to President's speech at candidate's fundraiser. Checks were made out to the candidate's principal campaign committee, and corporation had a policy in place of not reimbursing political contributions. Nevertheless, the Commission accepted Respondents' statements that they did not know their conduct was illegal.).